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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/715,586	11/17/2000	Peter Worthington Hamilton	5922R2C	5737

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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
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CINCINNATI, OH 45224

EXAMINER

CHANG, VICTOR S

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 11/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/715,586

Applicant(s)

WORTHINGTON HAMILTON ET AL.

Examiner

Victor S. Chang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,9-12,14-18,41,47-52,54-58,66,81,95,97-103 and 105-108 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,9-12,14-18,41,47-52,54-58,66,81,95,97-103 and 105-108 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Introduction

1. Applicants' remarks filed on 9/28/2006 have been entered. None of the claims has been amended. Claims 1, 9-12, 14-18, 41, 47-52, 54-58, 66, 81, 95, 97-103 and 105-108 are active.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Rejections Based on Prior Art

3. Claims 1, 9-12, 14-18, 41, 47-52, 54-58, 66, 81, 95, 97-103, 105-108 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilbur [US 2338749] in view of Sanders [US 5344693] and Applicants' admitted prior art.

Wilbur's invention relates to wrappers of flexible paper or other equivalent sheet material [col. 1, lines 1-3]. Wilbur teaches that the invention can be embodied in a label, wrapper, envelope or other article of flexible sheet material intended for other uses [page 1, col. 2, lines 34-37]. Fig. 7 shows that an embodiment in which a multiplicity of pin punctures 16 each of which is surrounded by an outstanding tubular burr 17, and surrounded by a coating of permanently sticky or tacky adhesive 18. The outstanding burrs 17 (protrusions) serve as means for normally shielding the adhesive coating against accidental contact with other objects. When end portions are overlapped and pressed together, the burrs or bosses 17 are collapsed, the ends are united by the adhesive [page 2, col. 1, line 48 to col. 2, line 8].

For independent claims 41 and 95, Wilbur lacks teachings that a) the flexible sheet material is non-porous and activatable by a tensile force; b) the wrapper is conformable and has a small resiliency. However, regarding item a), Sanders' invention relates to a spacing means for a web of material [col. 1, lines 60-62]. The spacing means is capable of maintaining a separation of a surface carrying an adhesive and an adjacent surface until it is required that the two surfaces shall unite one with another by the adhesive [col. 1, lines 10-13]. In Fig. 4, Sanders shows an embodiment of non-porous non-adherent protrusions being surrounded by adhesive [col. 2, lines 16-18]. It would have been obvious to one of ordinary skill in the art of adhesive sheets to modify Wilbur's protrusions with an alternative functionally equivalent non-porous non-adherent protrusions of Sanders, motivated by the desire to obtain a wrapper made with a known equivalent spacing means, because the selection of a known equivalent material based on its suitability for its intended use supported a *prima facie* obviousness determination. See MPEP § 2144.07. As to the limitation "activatable by a tensile force", since this limitation is clearly optional, there is no requirement for the prior art to provide or account for the limitation, because it does not constitute a limitation in any patentable sense. Further, even if this limitation is considered to bear patentable weight, since the spacing means of Sanders are structurally the same as the protrusions of instant invention (Fig. 3), the property of "activatable by a tensile force" is reasonably considered to be an inherent property of the same structure. Regarding item b), however, Applicants have admitted that it is known art that sheet materials with clinging character (cling film) can be wrapped around an item (conformable) such that they cling to the item (low resiliency, because it does not break contact with the surface of a container under restorative forces), so as to form a fully enclosed (sealed) container structure to preserve food

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[specification, page 1, lines 26-35]. It would have been obvious to one of ordinary skill in the art of wrapper to modify Wilbur's wrapper with a known conformable and low resilient sheet material, as admitted by applicants, motivated by the desire to provide a wrapper with suitable physical properties for fully enclosed (sealed) applications. In summary, the combined teachings of prior art render the instant invention obvious at the time the invention was made, with a reasonable expectation of success.

For claims 1, 11, 51, 81, 99, 102, 103 and 107, Applicants have admitted that it is known art that a suitable wrap sheet materials (cling film) can be used to form a closure for a container, as set forth above.

For claims 9, 47, 49 and 106, regarding the amount of adhesion peel force and tensile force, since the combined teachings of prior art teach generally the same subject matter for the same use (a wrapper film of a non-porous adhesive sheet), and the utility as such dictates there would be similar forces for use, a suitable amount of adhesion peel force and tensile force are reasonably considered as being obvious optimization to one skilled in the art of adhesive wrappers. *In re Aller*, 105 USPQ 233.

For claims 10, 48, 50, 97 and 105, regarding the methods of use by selective activation of adhesion in discrete regions, applicants have admitted that it is known art that sheet materials with clinging character (i.e., cling film) can be used to form a closure for a container, which anticipates the selective activation at contact regions between the wrapper film and the container.

For claims 12, 52, 100 and 108, applicants have admitted that it is known art that a clinging film may be folded or wrapped around an item such that they cling to the item and/or to themselves. The clinging character of such materials also permits their use in combination with

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semi-enclosed rigid, semi-rigid, or flexible containers to provide a fully enclosed container structure [specification, page 1, lines 28-31]. It would have been obvious to one of ordinary skill in the art to modify the wrapper film of Wilbur in view of Sanders to coat adhesives on both sides of the wrapper, motivated by the desire to obtain a film which is able to cling to the item and/or to themselves to provide a fully enclosed container structure.

For claims 14, 54, 66 and 101, Wilbur expressly teaches that the adhesive is permanently sticky or tacky, as set forth above.

For claims 15, 16, 18, 55, 56 and 58, applicants have admitted that polymeric materials such as PVC, PVDC and PE are commonly used to form a cling film [specification, page 1, lines 24-25], and they are well known to be substantially translucent or transparent non-tacky film materials.

For claims 17 and 57, Sanders shows in Fig. 4 that the adhesive has a thickness less than the height of the protrusions.

Finally, for claims 98 and 106, Sanders teaches the use of a pressure sensitive contact adhesive [col. 2, lines 49-55], which inherently requires a compression force (pressure) for adherence at interface.

Response to Argument

4. Applicants argue at page 7 that Sanders does not teach a web material capable of activation when subjected to a tensile force as such activation would require spacing means which are necessarily divergent relative to one to another during normal use. However, since this limitation “activatable by a tensile force” is clearly optional, there is no requirement for the

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prior art to provide or account for the limitation, because it does not constitute a limitation in any patentable sense. Even if this limitation is considered to bear patentable weight, since the spacing means of Sanders is structurally the same as the protrusion of the instant invention (Fig. 3), the property of "activatable by a tensile force" is reasonably considered to be inherent to the same structure. Further, applicants fail to provide any evidence or reasoning that why the same structure, when taught by Sanders, would be incapable of being activatable by a tensile force.

Applicants argue at page 8 that there is no basis for the presumption that the unique structure of cling films may readily be altered by adding an adhesive layer from Wilbur together with the structure of Sanders while retaining the performance of the original structure in the areas of resilience and flexibility. However, since both Wilbur and Sanders teach protrusions on an adhesive web material for maintaining a separation between adhesive layer and substrate, and Wilbur suggests that flexible paper or other equivalent sheet material for other uses can be employed and Sanders' teachings relate to web of plastics film material, including embossed polyethylene film as web material, throughout [col. 5, lines 32-33], the expectation of success of the combined teachings of prior art is reasonably provided.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

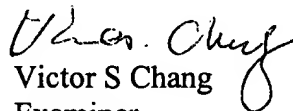
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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S. Chang whose telephone number is 571-272-1474. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H. Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Victor S Chang
Examiner
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10/30/2006